

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Document #

**5**

U.S.C.A. #

U.S.D.C. #

JUDGE:

DATE:

**08-cv-6796**

**KMW**

**AUGUST 22, 2008**

*Swinton*

-v-

*Rock*

INDEX TO THE RECORD ON APPEAL

PREPARED BY (NAME):

**THOMAS R. PISARCZYK**

FIRM:

**U.S. DISTRICT COURT - SOUTHERN DISTRICT OF NEW YORK**

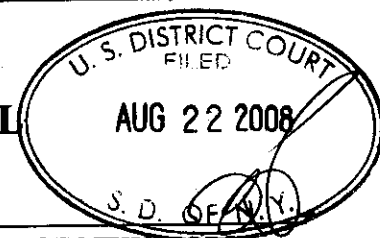
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DISTRICT COURT DOCKET ENTRIES

DOCUMENT DESCRIPTION

DOC. #

**CLERK'S CERTIFICATE**

**SEE ATTACHED LIST OF NUMBERED DOCUMENTS**

*Doc's #1 and 2 already in USA on Transfer.*

*Doc # 3 missing at this time*

( ☒ ) Original Record

( ☐ ) Supplemental Record

The record in the above entitled case was indexed to the U.S.C.A.  
for the Second Circuit on the 22<sup>ND</sup> Day of August, 2008.

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

U.S.C.A. # \_\_\_\_\_

*Seventon*

U.S.D.C. # *08-cv-6796*

-v-

JUDGE: *KMW*

*Rock*

DATE: AUGUST 22, 2008

**Clerk's Certificate**

I, J. Michael McMahon, Clerk of the Court of the United States District Court for the Southern District of New York, do hereby certify that the certified copy of the docket entries and the original filed papers numbered 1 Through \_\_\_\_\_, inclusive, constitutes the Original record on appeal in the above entitled proceedings except for the following missing documents:

Date Filed

Document Description

<i>Documents #1 and #2 are already</i>	
<i>in USCA on Transfer Order</i>	
<i>Document #3 is missing at this time</i>	

In Testimony Whereof, I have caused the seal of said Court to be hereunto affixed, at the City of New York, this 22<sup>ND</sup> Day of August In this year of our Lord, Two Thousand and Eight, and the Independence of the United States this 233<sup>RD</sup> year.

**J. Michael McMahon, Clerk**

By \_\_\_\_\_

*[Signature]*  
Deputy Clerk

APPEAL, CLOSED, HABEAS, PRO-SE

**U.S. District Court**  
**United States District Court for the Southern District of New York (Foley Square)**  
**CIVIL DOCKET FOR CASE #: 1:08-cv-06796-KMW**  
**Internal Use Only**

Swinton v. Rock  
Assigned to: Judge Kimba M. Wood  
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 07/30/2008  
Date Terminated: 07/30/2008  
Jury Demand: None  
Nature of Suit: 530 Habeas Corpus (General)  
Jurisdiction: Federal Question

Date Filed	#	Docket Text
07/30/2008	1	PETITION FOR WRIT OF HABEAS CORPUS pursuant to 28 U.S.C. 2254..Document filed by Reginald Swinton.(rdz) (Entered: 08/05/2008)
07/30/2008		Magistrate Judge Andrew J. Peck is so designated. (rdz) (Entered: 08/05/2008)
07/30/2008	2	TRANSFER ORDER (U.S.C.A.),Since petitioner submitted the instant petition to this court unaware of the requirement that the court of appeals must authorize this filing, this court transfers this matter to the U.S.C.A. for the Second Circuit in the interest of Justice. This order closes this docket number. If the Circuit authorizes petitioner to proceed in this Court, petitioner shall move to reopen under this docket number. SO ORDERED. Sent original file along with documents numbered 1-2, certified copy of docket entries and transfer order. Mailed via Inter-Office Mail on 8/7/2008. (Signed by Judge Kimba M. Wood on 7/30/2008) (mbe) (Entered: 08/07/2008)
08/13/2008		Received a letter from the United States Court of Appeals Second Circuit acknowledging receipt of the entire file and assigned Case Number: 08-3935. (mbe) (Entered: 08/15/2008)
08/15/2008	4	NOTICE OF APPEAL from 2 Transfer Order U.S.C.A. Document filed by Reginald Swinton. Copies mailed to attorney(s) of record: Attorney General, NYS. (tp) (Entered: 08/22/2008)
08/15/2008		Appeal Remark as to 4 Notice of Appeal filed by Reginald Swinton. \$455.00 APPEAL FEE DUE. IFP REVOKED 8/21/08. COA DENIED 8/21/08. (tp) (Entered: 08/22/2008)
08/21/2008	3	ORDER that for purposes of the appeal of the Court's 7/30/08, the Court determines that petitioner's application for habeas relief makes no substantial showing of a denial of a constitutional right and, thus, a certificate of appealability will not issue. 28 U.S.C. 2253; Lozada v. United States, 107 F.3d 1011 (2d Cir. 1997), abrogated on other grounds by United States v. Perez, 129 F.3d 255, 259-260 (2d Cir. 1997). The Court also certifies pursuant to 28 U.S.C. 1915(a)(3) that any appeal from this Court's 7/30/08 Order would not be taken in good faith. See Coppedge v. United States, 369 U.S. 438, 444-45 (1962). (Signed by Judge Kimba M. Wood on 8/21/08) (dle) (Entered: 08/22/2008)
08/22/2008		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: 4 Notice of Appeal. (tp) (Entered: 08/22/2008)
08/22/2008		Transmission of Notice of Appeal to the District Judge re: 4 Notice of Appeal. (tp) (Entered: 08/22/2008)